

Congress of the United States
Washington, DC 20510

August 12, 2019

The Honorable Robert Wilkie
Secretary of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Mr. Secretary,

We write today concerned that the Department of Veterans Affairs (VA) inappropriately rejected or denied payment for an estimated 60,800 veterans who received emergency care from non-VA providers. Facing a medical emergency can be stressful for any patient; however, the financial toll on veterans when VA erroneously denies or rejects payment can also be devastating. Hospitals may send veterans' emergency care bills to collection. Non-payment can bankrupt and destroy veterans' credit histories. These administrative errors can remain with veterans for the rest of their lives. We are equally alarmed that the VA Office of Inspector General (OIG) has substantiated allegations made in 2017 by a whistleblower that VA's productivity targets were incentivizing the inappropriate denial of these claims.¹

The OIG estimated that VA inappropriately denied or rejected about 31 percent of emergency care claims processed between April 1, 2017, and September 30, 2017. This could have affected about 60,800 veterans and totaled approximately \$716 million in billed charges. The OIG also found VA likely should have paid claims for about 17,400 of these 60,800 veterans, with bills totaling at least \$53.3 million during the 6-month review period. Further, the OIG found that VA failed to inform many veterans their claims had been rejected or denied, or of veterans' rights to appeal these decisions. This meant many veterans were blindsided by bills from emergency care providers due to VA's non-payment, and some were unable to appeal due to an expired appeal deadline. We know this firsthand. We have worked numerous emergency care claim denials and rejections as casework on behalf of veterans. We see this all too often, and the OIG has validated that VA errors lead to this unnecessary financial burden for veterans. The OIG estimated that if VA fails to correct these errors, an undue financial burden of about \$533 million for non-VA emergency care could be placed on veterans over a five-year period.

We are equally alarmed by the OIG's finding that VA valued production targets for timely processing of emergency care claims over fairly and accurately issuing decisions. VA's culture incentivized meeting unrealistic productivity standards that drove some claims processing staff to simply deny or reject emergency care claims rather than adjudicate them properly because doing so took less time. The OIG found that some VA employees actively directed or encouraged claims processors to deny or reject claims in order to meet VA's productivity standards, and staff who met these standards

¹ VA Office of the Inspector General, *Non-VA Emergency Care Claims Inappropriately Denied and Rejected* (Washington, D.C.: August 6, 2019).

were rewarded with overtime pay and telework privileges. Finally, the OIG also determined that VA lacks appropriate oversight mechanisms that could reduce the risk that veterans' emergency care claims will continue to be inappropriately denied or rejected. Almost half of the VA claims processing staff surveyed indicated they were not aware of a supervisor reviewing the quality or accuracy of their emergency care claims adjudication decisions.


This is not new territory for VA. The Government Accountability Office (GAO) reported in March 2014 on many of the same issues identified in the OIG report. More than 5 years ago, GAO found that VA's weak oversight of emergency care claims adjudication could lead to inappropriate denial of claims. It is disappointing the Department has not done enough to improve its processing of non-VA emergency care claims. Our expectation is that VA expeditiously and continuously implements the recommendations made by independent oversight bodies.

We request a thorough explanation of how and when the Department intends to comply with the OIG's 11 recommendations. In addition, we would appreciate knowing:


- whether any remaining explicit or implicit incentives exist that would cause employees responsible for processing non-VA emergency care claims to continue sacrificing quality for quantity;
- whether VA is appropriately resourced—in terms of staffing and technology—to implement requirements associated with emergency care claims adjudication;
- how VA plans to communicate with those veterans whose claims were inappropriately denied or rejected due to having other health insurance after April 8, 2016, and what assistance VA will provide to those veterans in re-adjudicating their claims; and
- how VA plans to re-adjudicate the approximately 17,400 veterans' claims the OIG determined VA likely should have paid.

We appreciate your attention to this request and look forward to working with you to ensure the Department carries out laws as Congress intended, accurately and fairly processes non-VA emergency care claims, and implements recommendations made by watchdog agencies like GAO and the OIG.

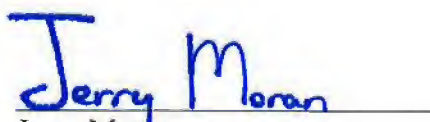
Sincerely,



Jon Tester
United States Senator



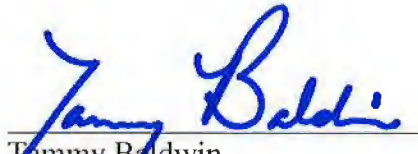
Mark Takano
Member of Congress

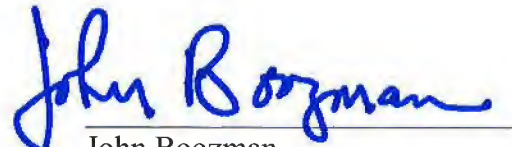


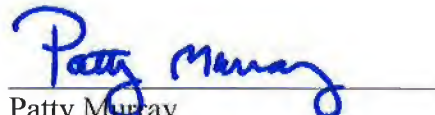
Jerry Moran
United States Senator




David P. Roe M.D.
Member of Congress



Tammy Baldwin
United States Senator

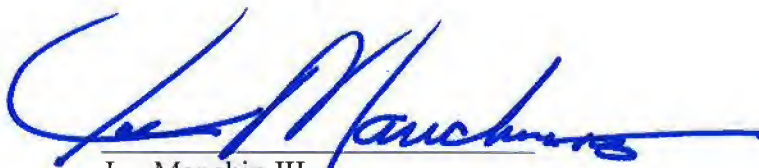

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United States Senator


Patty Murray
United States Senator

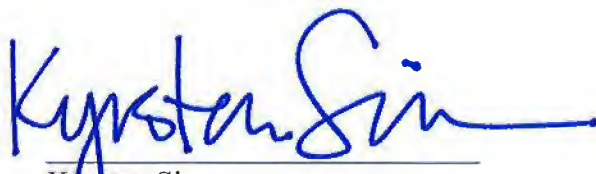

Bernard Sanders
United States Senator

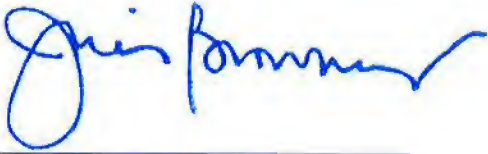

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United States Senator


Richard Blumenthal
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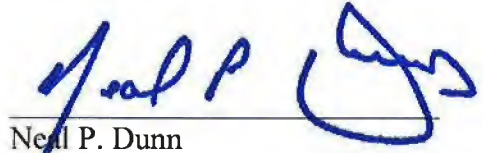

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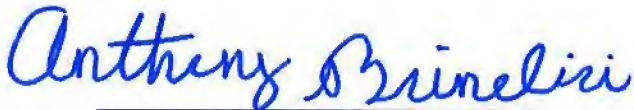
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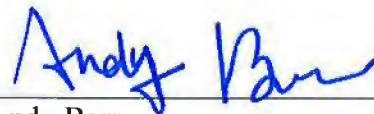
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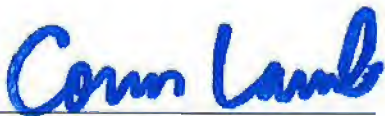
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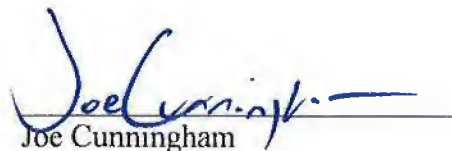
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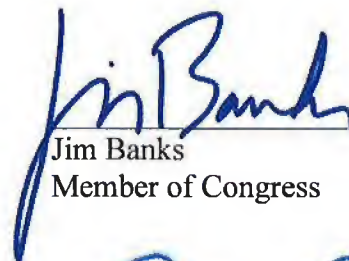
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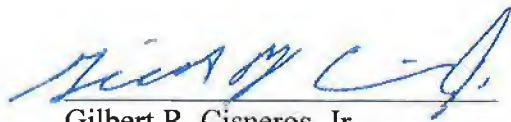
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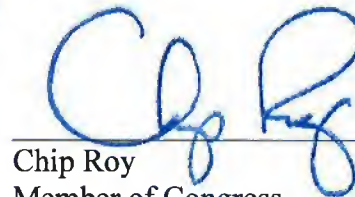
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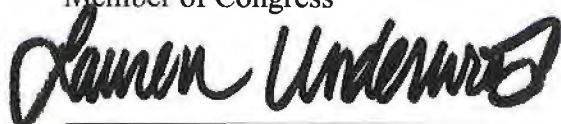
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